

## Vulnerability and the Embodied Violence of War

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### Abstract

Our paper refers to the concept of war as embodied violence and aims to examine the relevance of war in relation to the vulnerability of those involved. In the first part of the paper, the concept of vulnerability is introduced, highlighting its significance for a semantic shift in the representation of the subject of law as a self-standing, autonomous, and rational human being. In the second part of the paper, the capacity of human rights to protect the vulnerable individual is analyzed through references to contexts of war. Drawing on the work of Judith Butler, we critique the mere ontological characterization of vulnerability, since the recognition of vulnerable humans as deserving protection is tied to cognitive frames and shaped by political interests. War starkly reveals the political dimension of the relationship between vulnerability and the body, as well as the role of cognitive processes in distinguishing between categories of vulnerable subjects. The vulnerable body of the enemy is often stripped of its humanity and treated not as something to protect but as an object of retaliation. Warfare underscores the need for the concept of vulnerability to receive political support to be effective. Furthermore, warfare highlights the necessity (as Butler suggests) to reframe a cognitive frame that legitimizes the differentiation between types of vulnerabilities and, consequently, between types of humanity.

*Keywords:* vulnerability, human rights, the body, soft law

**Riassunto.** *Vulnerabilità e violenza incarnata in situazioni di guerra*

Il saggio concepisce la guerra come violenza incarnata e si propone di esaminare la rilevanza dei conflitti bellici in relazione alla vulnerabilità dei soggetti coinvolti. Nella prima parte del lavoro, viene introdotto il concetto di vulnerabilità, evidenziandone l'importanza per un cambiamento semantico nella rappresentazione del soggetto di diritto inteso come individuo autonomo, razionale e autosufficiente. Nella seconda parte, viene analizzata la capacità dei diritti umani di proteggere l'individuo vulnerabile in riferimento ai contesti di guerra. Richiamando il lavoro di Judith Butler, si propone una critica alla caratterizzazione ontologica della vulnerabilità, sottolineando come il riconoscimento della protezione giuridica dei soggetti vulnerabili sia legata a cornici cognitive modellate da interessi politici. La guerra rivela in modo drammatico la dimensione politica del rapporto tra vulnerabilità e corpo, ed evidenzia il ruolo dei processi cognitivi nel distinguere tra diverse categorie di soggetti vulnerabili. Il corpo vulnerabile del nemico viene spesso privato della propria umanità e trattato non come soggetto da proteggere, ma come oggetto di ritorsione. La guerra sottolinea come il concetto di vulnerabilità abbia bisogno di supporto politico per essere efficace. Inoltre, evidenzia la necessità (come suggerisce Butler) di riformulare l'attuale cornice cognitiva, la quale legittima la differenziazione tra tipi di vulnerabilità e, di conseguenza, tra tipi di umanità.

*Parole chiave:* vulnerabilità, diritti umani, corpo, soft law

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### 1. Introduction

Vulnerability is a constitutive feature of living beings (Turner, 2006; Bernardini, 2017; Pastore, 2021) and of nature as such (Longo and Lorubbio, 2023b). Semantically, it has to do with the incumbent possibility for the living body to be wounded, the Latin word *vulnus*

meaning, in fact, wound. Both the reference to the living body and to its frailty are relevant elements of the use of the term in the broad field of the human and social sciences. The increasing use to the concept, in fact, marks a critique of the widespread individualism which has long characterized neoliberalism, including the conceptualities it has developed and the practices it adopts (Gear, 2011). Said critique is twofold: on the one hand, it shows the inconsistency of the representation of the individual as a powerful, self-standing, autonomous actor. Frailty and vulnerability, in fact, imply, by necessity, the need for mutuality and reciprocal support. On the other hand, and strongly interconnected with the first aspect, vulnerability forms the intellectual basis for a conception of the actor as deeply intertwined in the cultural, communitarian and environmental networks in which humans, both as social and natural beings, are located (Gear, 2011).

The historical roots of the concept can be traced, among other sources, back to the Western philosophical-legal tradition and various legal and political theories, such as German natural law theories, particularly those of Samuel Pufendorf. According to Pufendorf (1774) the individual is to be seen as a vulnerable subject whose main characteristic is weakness (*imbecillitas*, in Pufendorf's Latin).

In the alternative Hobbesian version of vulnerability, proximity among individuals implies the potential for violence in a world of constant warfare, where all people are equally vulnerable due to the fragility of their bodies. Common vulnerability makes everyone a potential threat to one another, hence the necessity for the state to be constituted to act as a regulator of mutual aggression. Yet, if the individual is weak, the state may be regarded as an institutional structure whose aim is not only social control – as Hobbes claimed, conceiving individuals as dangerous and potentially lethal to one another – but also the support and protection of vulnerable human beings.

Although an interesting semantic forerunner, Samuel Pufendorf's concept of *imbecillitas* is scarcely compatible with our modern understanding of vulnerability, as it may be understood as an effort to reconcile natural law with absolutism as a paternalistic form of government, thus legitimizing the unequal structure of Ancien Régime society (Longo, 2001). Setting aside the historical development of the concept, vulnerability can be

understood as a fundamental condition that affects both human and non-human life, rendering it precarious. Judith Butler exemplifies this perspective, arguing that our shared precariousness necessitates social bonds (Butler, 2004).

Butler moves beyond any naïve conception of precariousness by emphasizing that ontological vulnerability is simultaneously a social construction. While this may seem contradictory – how can ontologies, which concern fundamental conditions of existence, also be social constructions? – it becomes clearer when we consider that our precariousness is rooted in the body. The body exists within a plurality of social relations, which can both provide care and pose threats. As Butler explains, «in its surface and its depth, [...] the body is a social phenomenon: it is exposed to others, vulnerable by definition» (Butler, 2009, p. 33). This inherent exposure to others, an aspect of our social existence, implies that vulnerable bodies are often subject to undesired proximity and social control. The case of warfare exemplifies how this exposure can render bodies particularly vulnerable to harm and manipulation.

## **2. Vulnerability as a paradigmatic challenge**

When embraced as an ontological aspect of human existence, vulnerability may become a conceptual marker of a shifting semantic paradigm. This paradigm challenges the traditional Western notion of individual autonomy, by highlighting instead the interconnectedness of human and, more generally, of all living beings. The sociality of the body may lead to a kind of affective responsibility towards others, which stands as the counterpart to unwilled proximity. One may refer here to the concept of mutual aid, as developed by the nineteenth-century anarchist Peter Kropotkin (Benvenga and Longo, 2020), according to whom life's precariousness can be mitigated by the plurality of mutual support that characterizes and sustains human life.

However, merely articulating the concept may not necessarily lead to the political and social responsiveness that Martha Fineman (2008; 2010; 2023) suggests the concept should

entail. According to Fineman, in fact, the awareness of our shared vulnerability should foster welfare policies and the political responsibility for those who are more vulnerable. As an alternative to this line of reasoning, vulnerability may be conceived as a label applied to specific social groups, which implies that the way vulnerability is socially perceived and understood is part of a broad set of social, cultural, and cognitive processes with political implications, as they may allow both the inclusion of vulnerable subjects and the discrimination among types of vulnerability.

In fact, while vulnerability may appear to promote social inclusion, it often leads to new forms of discrimination, for example among vulnerable subjects or types of vulnerability, activating a form of paternalistic control of marginalized groups (Pariotti, 2019). Nonetheless, the concept has succeeded in producing a more inclusive semantics, highlighting what has been excluded and the political, social, and cognitive mechanisms through which exclusion occurs. (Longo and Lorubbio, 2003a).

The 19th-century codification of law, particularly civil law (Tarello, 1976), made reference to an individual conceived as rational, capable of providing for their family and contributing to the nation's progress and wealth. A plausible synthesis, albeit incomplete, qualifies the "paradigmatic subject of law" as white, male, breadwinner, bourgeoisie and citizen, where each characteristic is mutually supportive (Longo and Lorubbio, 2023a). The idealization played a progressive role during the development and implementation of civil and political rights (Marshall, 1966). However, it was later used as a conceptual tool to exclude marginalized groups, such as women, racial minorities, and those not belonging to the nation-state (Carbonier, 1963).

Semantically evolving from the medieval conception of *jus* as a subjective right, the legal capacity of the paradigmatic subject of law is still understood as a form of power: for example, the power to control aspects of the world, to take part in social and economic relations with specific claims and to take possession or exploit the natural environment. Although increasingly inclusive (with gender and ethnicity no longer being factors of exclusion – at least in Western countries, though the quality of citizenship remains relevant), the subject of law may be represented as a titanic conceptualization, capable of translating

Western individualism into juridical terms (Longo and Lorubbio, 2003a).

The “vulnerability turn”, on the contrary, is an attempt to substitute the self-sufficiency of the paradigmatic subject of law (hence its power, dominion, rationality, will), with the concrete weakness of a situated individual. One significant implication of vulnerability is, in fact, that the concept may offer a different perspective from which to define and legitimize human rights. By referring human rights to the concept of vulnerability, one may conceive of them as a consequence of the legal translation of human precariousness and the need for mutuality. This implies that human rights may be conceptually separated from what has been called the “paradigmatic subject of law”, an idealization that synthetically translates into legal language a generalization of the human being which is, instead, gender and ethnically specific (Pariotti, 2003, Samson, 2020).

### **3. Human rights and the vulnerable body**

A further paradigmatic function of the concept of vulnerability is, therefore, that it may help overcome the implicit individualism inherent in human rights. By referring to the vulnerability of the human body, Byrne Turner (2006) proposes an approach aimed at facilitating this process of de-individualization. His premise is that when we view human rights as a political and legal consequence of our shared precariousness and vulnerability, they may find their source of legitimation in the necessary interconnectedness guaranteed by social bonds. Turner draws a connection between vulnerability and the philosophical anthropology of Arnold Gehlen, who explains society as a necessary structural support for the inherent incompleteness of human beings.

As Turner points out, when compared to other species, humans appear to Gehlen as ontologically incomplete. Humans are born defenseless, requiring an extended period of socialization within institutions such as families and communities to achieve a degree of self-sufficiency. Moreover, as a species, humans are not particularly strong or endowed with unique physical properties or qualities. Our strength lies in our “openness to the world”, the

ability to adapt to various environments and conditions through the social process of cultural construction. Thus, the institutional framework of society functions both as a support system for the ontological deficiency inherent in individual human beings and as a means to enhance our collective capacity to control the external world through cultural innovation and social integration (Turner, 2006, p. 29). Social institutions (one could include human rights) may hence be intended as instruments to mitigate human vulnerability through the structural support of sociality.

As opposed to civil, political, and social rights (Marshall, 1950), which are strongly tied to the condition of national citizenship, human rights are generally understood as universal. Civil, political, and social rights are exclusive, as they pre-select those who, by belonging to the national community, are accorded specific prerogatives in the form of subjective rights. Hence, they prefigure a set of qualities for their enjoyment, primarily both the quality of being human and the quality of being a citizen. These rights may be expanded, for example, by identifying new needs and risks that a responsive state could address through the recognition of new social rights for specific groups, such as the unemployed, marginalized, or infirm (Bobbio, 1990). However, they are neither universal nor generalizable, as they are tied to citizenship. The exclusivity of subjective rights is mitigated when it comes to their configuration as human or fundamental. As a matter of facts, human rights are guaranteed within modern constitutions (see for example art. 2, of the Italian Constitution), yet it is in international conventional acts, starting from the Universal Declaration of Human Rights, that they assume a proper universal character.

Nonetheless: How effective are human rights in the international context? Are they enforceable, considering that they lack a supranational authority capable of implementing and protecting them? Or are they subject to the whims and strategic decisions of international powers? The conception of international law as soft law (Tramontana, 2017) is strongly associated to the fact that human rights need not only acknowledgement but also protection and yet there is no supranational structure which equates the national state in this specific function. When considering the contrasting power dynamics on the international stage and the inherent weaknesses of international law, human rights often appear as little more than

ideological embellishments in the face of actual power disparities and the balance of power in the international arena (Longo, 2021).

Vulnerability as a conceptual tool provides human rights with a plausible universal foundation. Bryan Turner is clear in this regard. While it is true that the primary issue of human rights lies in their enforcement and implementation (Turner, 2006), an ontological foundation of their universality may serve as an intellectual tool to legitimate interventions in favor of their enforcement and, at the same time, help avoid any relativistic conception that may constantly challenge their universality.

Vulnerability is, according to Turner, an embodied quality shared by all human beings. And it is by making reference to our shared vulnerability that cultural relativism may be mitigated. The ontological character of vulnerability may help establish an argumentative starting point, thereby avoiding, or weakening relativistic approaches. Our quality of sentient and social beings – hence our capacity to suffer, to feel shame and humiliation – may be conceived of as a sufficient common basis for human rights. Consider Turner's perspective: «We should not stress the differences among human beings from the position of cultural relativism, but emphasize the common ground that unites individuals in an existential context of shared experiences of pain and humiliation. This capacity for suffering creates a significant basis for universalism» (Turner, 2006, p. 9).

It is the body, with its capacity to feel pain, and the social nature of the actor, with his capacity to experience emotions such as shame and humiliation, that represent, according to Turner, a common ground for the legitimation of human rights. Although cultures may differ and societies may have diverse institutional organizations, what ties human beings together are the risks and perturbations that arise from their vulnerability (Turner, 2006, p. 9).

By referencing Peter Berger's theory that religions are part of the protective institutional environment, whose function is to socially close the world-openness typical of the human species, Turner advocates for legal institutions as a means to provide «some degree of security in this precarious environment» (Turner, 2006, p. 29). Law, and human rights in particular, are conceived, together with religion, as part of the institutional shield protecting individuals and groups from their vulnerability in a precarious, open world. Here is Turner's

account:

legal institutions are fundamental in providing some degree of security in this precarious environment— and from this basic philosophical account of the ontological incompleteness of humans, we can derive the elementary forms of a juridical canopy in terms of the rule of law, habeas corpus, civil liberties, and rights. Human rights can be seen as a component of this protective juridical shield. Indeed, the social canopy is constructed of both rites (sacred institutions) and rights (legal devices of security) (Turner, 2006, p. 29).

Due to their relevant function, abusing human rights has deep consequences both for the individual and his/her social environment. Turner refers to three processes which are strongly interconnected, and which are relevant for the constitution of human beings and their identity. Our everyday use of our body makes acts, preferences, taste incorporated through the process of embodiment, which recalls Bourdieu's concept of habitus (1977). In this process, we construct a social self, which is inseparable from our bodily, physical dimension. Embodiment and enselfment are always located, in the sense that our identity (which is at the same time physical and psychical) is only possible if we are able to live in a certain environment and manipulate it.

Whenever human rights are abused, or neglected or disregarded, the very process as described above, including embodiment, enselfment and emplacement, is prevented with obvious consequences on the individual and social level. Let us quote Bryan Turner again:

Human rights abuses disconnect and destroy the conditions that make embodiment, enselfment, and emplacement possible. They typically involve some attack on the body through torture and deprivation, an assault on the dignity of the self through psychological threat, and some disruption to place through exclusion—imprisonment, deportation, seizure of land, or exile (Turner, 2006, p. 27).

This implies, conversely, that human rights may be adopted as an instrument to guarantee everyone the possibility of constructing themselves as human beings, able to manage their body, endowed with an individual self, and spatially (hence socially and culturally) situated (Turner, 2006, p. 27).

The negation and abuse of human rights result in a generalized process, which Erving



Goffman (1961) has clearly detected in connection with total institutions, by which individuals are deprived of their vital and social space, devoid of any strategy for presentation and concealment of themselves and therefore reduced to mere bodies. This process of deprivation is particularly evident in warfare, where vulnerability is conceived as the premise for the enemies' annihilation, rather than as the basis for mutual support and respect, but.

#### **4. War as embodied activity**

According to Bryan Turner, there exists a strong interconnection between the technification and mechanization of war in the 20th century and the development of human rights and their recognition in international law. The exponential increase in civilian casualties and the devastating impact of mass-destruction weapons spurred a political process that advocated for the entitlement of human rights to all, irrespective of national affiliation, gender, culture, or political and religious beliefs (Turner, 2006, p.13). Due to its mechanization, war continues to inflict ever more effective damage on human bodies and the social and natural environments in which they find themselves. Furthermore, despite the rhetoric surrounding human rights, our shared vulnerability fails to prevent the abuse of both rights and the bodies of those entitled to them, particularly in times of war. Building on the arguments outlined above, this paragraph will examine war as an embodied activity, with particular focus on its exacerbated impact on civilians who are compelled to endure its far-reaching consequences.

Elaine Scarry (1985, p. 64) writes that war is chiefly injury, yet this bodily dimension of war is often either omitted or redescribed. The wounded body of the enemy is obscured when a national power seeks to conceal the humanitarian consequences of armed intervention. The wounded bodies of compatriots, on the other hand, are emphasized and presented in public discourse as justification for the war, framed as a strategic defense of the nation.

Alternatively, the battered bodies of the victims of war may be evoked in compassionate

communicative campaigns aimed at the elimination of certain weapons. For instance, consider the photographs depicting the devastated bodies of Japanese victims after Hiroshima and Nagasaki or the images of Vietnamese victims affected by chemical weapons during the conflict with the U.S. army.

Even when injured bodies are a specific focus in the discourse of war, they often appear either as deliberate but secondary consequences of military operations or as entirely unforeseen and unintended events, yet humans, whether as corpses or as wounded bodies, lose their concreteness when reduced to the neutral metaphor of “costs in human lives”. They may even be described as a necessary consequence to achieve political objectives, as reflected in Clausewitz’s well-known dictum: «War is the continuation of policy by other means» (Scarry, 1985, p. 80). What emerges in the communication, and thus in the common perception, of war is the strategic adaptation of its content. While war fundamentally entails injury and death, the wounded bodies and corps are either neglected or redescribed, with both neglect and redescription being politically motivated.

Yet, irrespective of its communicative masking or redescrptions, the body remains a crucial component of war – whether as a corpse, a wounded body, or the trained body of soldiers, who embody discipline as a means of efficiently killing and wounding (McSorley, 2014, p. 117). It is in the clash between the trained bodies of soldiers, who strive to obscure their vulnerability, and the vulnerable bodies of civilians that the consequences of war for embodied vulnerabilities become most evident. Regardless of any ontology of vulnerability and its implications for mutuality, dignity, and respect for human rights, in wartime, the vulnerability of the body – far from serving as a deterrent to violence – is instead transformed into an object of violence.

Violence can even become disconnected from its primary objective of causing damage to the enemy state and its population. It may acquire a highly symbolic connotation, seemingly devoid of any strategic goals: collective and systematic acts of rape may be used as a symbolic weapon (Bergoffen, 2009), or the abhorrent practice of dismembering corpses may serve as a form of morbid retaliation (Gregory, 2015).

## **5. Selected vulnerabilities and war**

The previously outlined relationship between war and vulnerable bodies underscores the necessity of integrating an ontological conception of vulnerability, one that is inscribed in the physicality of the human being, and the social and legal practices aimed at protecting individuals and prevent abuse of their human rights. Indeed, simply referencing the common condition of vulnerability does not fully explain the suspension of human rights during warfare. In other words, as Butler (2009, p. 3) suggests, the ontology of vulnerability must be understood as a social ontology, embedded within the cultural and normative patterns that define the body – one could add only certain bodies under specific circumstances – as vulnerable (Butler, 2009, p. 3). Defining someone as vulnerable is, therefore, a political act, as it implies that certain individuals or groups are institutionally perceived as having lives endowed with greater or lesser value.

Life becomes a qualifiable property, to the extent that some human categories may be deemed less than human (non-persons, according to Alessandro Dal Lago, 1999) or as unentitled to human rights (non-subjects of law, according to Carbonnier, 1963). These qualifications activate multiple processes of exclusion, such as the exclusion of migrants from national borders, despite the objective vulnerability of this category. War, in turn, represents one of the most extreme denials of our common vulnerability for strategic reasons. As Butler (2009, p. 44) writes, war denies the mutuality of social relations, such that the recognition that each of us is both dependent on and potentially vulnerable to threat and violence from others becomes a justification not for the mutuality of human rights, but for the violent clash of conflicting entities.

Let us turn again to the question of vulnerability as both an ontological condition and a constructed attribute. What is apprehended as life is only partly determined by the constitutive elements of the perceived objects, as its recognition is embedded in a complex set of socially determined norms and power relations. One could say that, despite any ontology of vulnerability, the recognizability of life as such is determined, in the last instance, by social norms (Butler, 2009, p.6). The ontological quality of life as precarious and

vulnerable is therefore subject to a process of recognition, whose main outcome is a «differential distribution of precarity» (Butler, 2009, p. 25) leading to varied treatments of existential precariousness. The recognition or disavowal of life is a political act in a dual sense: it defines a cognitive boundary by which some lives become irrelevant or dangerous, and thus eliminable; and it produces a differentiated treatment of living human beings, who may either gain access to protection or be exposed to starvation, unease, violence, and death (Butler, 2009, p. 25).

Thus, although vulnerability is, as it were, an ontological quality of any living being, the way life is recognized and supported depends on cognitive frames and social norms that determine who is worthy of the institutional support (including human rights) that vulnerable lives deserve once they are recognized as such. A direct quote from Judith Butler may help illustrate the connection between human life and the institutional and social support required to sustain it:

We cannot easily recognize life outside the frames in which it is given, and those frames not only structure how we come to know and identify life but constitute sustaining conditions for those very lives. Conditions have to be sustained, which means that they exist not as static entities, but as reproducible social institutions and relations (Butler, 2009, pp. 23-24).

But how does the denial of human vulnerability in the context of warfare lead to differentiation in the way categories of human beings are institutionally regarded and treated? This differential treatment is often affectively constructed and politically oriented. Butler effectively connects the recognition of life as valuable to the possibility, accorded culturally and politically, of mourning the death of an individual recognized as fully human. In fact, it is mourning that specifies life as human, and grief is what gives life its intrinsic value (Butler, 2009). The process of neglect, concealment, or metaphorical removal, as hinted at by Elaine Scarry (1985), is reinforced by the negation of grievability for those lives that are not politically, culturally, or strategically recognized as proper lives (Butler, 2009, p. 33). The vulnerable body of the enemy is not worth mourning, which implies that his or her life is at the disposal of the most powerful forces, both on the battlefield and in the communication arena.

## **6. Reframing the frame**

War is the context that starkly reveals the vulnerability of human life. Yet, as Butler suggests, it also starkly differentiates among higher and lower levels of grievability, and thus the humanity attributed to different categories of individuals. It shows the ineffectiveness of human rights and humanitarian law, i.e., the complex of norms and conventions whose task is to mitigate the consequences of extreme violence on soldiers and civilians (Crawford and Pert, 2024; see also Sassoli, 2024 and Hagan and Raymond-Richmond, 2015). It also underscores that any ontological character of life, including precariousness and vulnerability, as the foundation of respect for and human life and human rights, is *per se* ineffective. Which paradoxically implies that life is not reason enough for the protection of lives, especially in contexts of war.

Butler is clear in this regard: in times of war, the cognitive definition of life as grievable, and its framing as worth living and mourning, is part of a political and strategic definition of the enemy as endowed with a lower humanity and their body as possessing inferior dignity (Butler, 2009). The reference to war may even disclose the very process of framing, i.e. the differentiated attribution of vulnerability to the adversary, and the resulting differentiated treatment both on the battlefield and in communication. In fact, although a cognitive and normative frame is an indispensable condition for the recognition of life and its precariousness, frames are not static: they circulate as part of the process of recognition and they may change in the course of communication (Butler, 2009). And when, for any reason, the wounded or violated bodies of enemies or their dismantled corpses begin circulating in the public sphere, they may provoke outrage and indignation, potentially triggering a process of redefining who is considered worth living and grieving.

Judith Butler clearly shows the ongoing transformation of the frame in connection with the images of Abu Ghraib and the poetry of those convicted in Guantanamo. The lives of those in the photographs and those who wrote the poems, once apprehended as vulnerable and hence human, triggered a partial redefinition of the frames and the norms that substantiated them:

The conditions are set for astonishment, outrage, revulsion, admiration, and discovery, depending on how the

content is framed by shifting time and place. The movement of the image or the text outside of confinement is a kind of "breaking out," so that even though neither the image nor the poetry can free anyone from prison, or stop a bomb or, indeed, reverse the course of the war, they nevertheless do provide the conditions for breaking out of the quotidian acceptance of war and for a more generalized horror and outrage that will support and impel calls for justice and an end to violence (Butler, 2009, p. 14).

Two examples of the violation of the body's vulnerability in wartime, each carrying high symbolic value, are summarized below, both presented as instances of partial reframing. Debra Bergoffen (2009) analyzes juridical decisions concerning mass rape at both the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the former Yugoslavia. Both tribunals converted an often-tolerated crime into a punishable offense, qualifying it «as a crime against humanity, the most egregious international criminal offense» (Bergoffen, 2009, p. 308). The legal arguments were that rape (thus an act against the vulnerable body of women) was adopted as a military strategy and part of «the official genocidal campaign» (Bergoffen, 2009, p. 308). By combining the concepts of vulnerability and ambiguity, Bergoffen tries to show how violating bodies in war represent a subtraction of human dignity. Let us briefly follow her argument. Ambiguity is a phenomenological concept referring to the fact that humans are both endowed with consciousness, making them meaning-constructing beings, and possess a material body, which is part of the physical world (Bergoffen, 2009, p. 312). Our vulnerability as living beings is related to our corporality, which is indissoluble from our consciousness. Violating the body is a violation of human dignity, and violating the feminine body through rape is a violation of the intrinsic affectivity linked to sexuality.

Violence may be perpetrated even on corpses, as an extreme form of disavowal of dignity. Thomas Gregory (2015) commented on episodes of the Afghanistan war where American soldiers killed civilians, apparently for no grounded reason, and dismantled their dead bodies as the ultimate form of spite. Violating a dead body is an extreme act by which the vulnerability of the human being is, as it were, exposed, and the body, reduced to scattered members, is deprived of any dignity and humanity. As Gregory writes, referring to Judith Butler: «the bodies of Afghan civilians are vulnerable not because they are exposed, but

because the norms that compel their materialisation have left them unintelligible as human beings» (Gregory, 2015, p. 14).

Both examples, by taking violence to extremes and depriving it of any apparent practical task, connote violence as both physical and symbolic. This demonstrates how war serves as a particularly suitable context for testing the cognitive and political functions of the concept of vulnerability, as well as the capacity of outrage to partially reframe the cognitive background that enables the differentiation among vulnerable humans. Both the International Tribunals and the US Martial Court declared the defendants guilty, thus assuming violated or scattered bodies as sufficient grounds for condemnation. However, no legal sentence can prevent violence in war, and no legal tool, such as human rights, can prevent bodies from being killed or violated, as the very apprehension of enemies as vulnerable may foster «the desire to destroy them» (Butler, 2009, p. 2).

In wartime, understood here as a fracture in the normalcy of everyday life, the reference to vulnerability may be invoked, though without any guarantee of preventing the recurrence of violence. Vulnerability, as a conceptual tool, may be adopted – if at all – to highlight the eloquence of wounded or violated bodies and, in doing so, break out of traditional frameworks and, as in the instances sketched above, guide juridical decisions.

Nonetheless, the “breaking out” of the frame and from the frame, according to Butler, reveals that the frame is a normative instrument of power and control. Its circulation opens up alternatives that, by challenging the taken-for-granted representation of reality it constructs, may expose «the orchestrating design of the authority who sought to control the frame» (Butler, 2009, p. 12). Through circulation, frames may redefine their normative structure and, in doing so, expand the categories that can be apprehended and recognized as proper lives. War makes vulnerable subject (no matter whether recognized or not as such) more vulnerable and, at the same time, vulnerability appears with clear evidence in war conditions. War may unintentionally bring the vulnerability of those deprived of all human rights into the public discourse, triggering a process of cognitive change and thus creating space for reframing the frame.

## **7. Concluding remarks**

Vulnerability is both an ontological condition and a social construction. As an ontological condition, vulnerability prompts us to reconsider the subject of law, a hallmark of the liberal tradition. The vulnerable subject emerges in legal, political, ethical, and sociological discourse as a weak entity, reliant on the support of its social environment, whether in the form of mutual assistance or state intervention. Referencing the vulnerability of human beings implies a departure from the neoliberal notion of self-sufficiency, no longer viewing individuals as abstractly rational and autonomous, but rather as relational beings whose position in the world is shaped not only by their qualities, abilities, and resources, but also by structural, environmental and social factors.

This is not the appropriate context to evaluate the theoretical and political consistency of the concept of vulnerability. However, it is clear that invoking vulnerability highlights fractures, identifies new subjects, and proposes novel recognition practices. In this sense, it may address the excluded as significant, view wounded bodies as a concern, acknowledge the fragility of the human condition, and even recognize the relationship with the environment as an urgent issue (Longo and Lorubbio, 2023b).

Critical accounts of the occulted bodies of war victims can help reinforce the importance of vulnerability in reshaping our perception of what is grievable, and, consequently, of life as valuable, worthy of living, and deserving of institutional protection even in the form of human rights. However, this process of cognitive redefinition depends on the activation of cultural, normative, and political changes aimed at redefining the complex relationship between war, vulnerability, and the living body.

## **Reference List**

Bernardini M.G. (2017). Il soggetto vulnerabile. Status e prospettive di una categoria giuridicamente controversa. *Rivista di filosofia del diritto*, 2: 265. DOI: 10.4477/88284.



- Benvenga L., Longo M. (2021). Kropotkin. Mutualismo e anarchia. *Lab's Quarterly*, 22, 3: 131. Retrieved from: <https://www.thelabs.sp.unipi.it/luca-benvenga-michele-longo-kropotkin-mutualismo-e-anarchia> (18/05/24).
- Bobbio N. (1990). *L'età dei diritti*. Torino: Einaudi.
- Bourdieu P. (1977). *Outline of a Theory of Practice*. Cambridge: Cambridge University Press.
- Butler J. (2004). *Precarious Life: The Powers of Mourning and Violence*. London: Verso.
- Butler J., (2009). *Frames of War. When is Life Grievable?* London: Verso.
- Carbonnier J. (1963). *L'hypothèse du non-droit*. Paris: Sirey.
- Crawford E., Pert A. (2024). *International Humanitarian Law*. Cambridge: Cambridge University Press. DOI: 10.1017/9781009326681.
- Dal Lago A. (1999). *Non-persone: l'esclusione dei migranti in una società globale*. Milano: Feltrinelli.
- Fineman M. (2008). The Vulnerable Subject: Anchoring Equality in the Human Condition. *Yale Journal of Law & Feminism*, 20, 1: 1. Retrieved from: <https://digitalcommons.law.yale.edu/yjlf/vol20/iss1/2> (16/05/2024).
- Fineman M. (2010). The Vulnerable Subject and the Responsive State. *Emory Law Journal*, 60, 2: 251. Retrieved from: <https://scholarlycommons.law.emory.edu/elj/vol60/iss2/1> (16/05/2024).
- Fineman M.A. (2023). The Significance of Understanding Vulnerability: Ensuring Individual and Collective Well-Being. *International Journal of the Semiotics of Law*, 36: 1371. Retrieved from: <https://doi.org/10.1007/s11196-023-10021-2> (16/05/2024).
- Goffman E. (1961). *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*. New York: Doubleday.
- Grear A. (2011). The vulnerable living order: Human Rights and the Environment in a critical and philosophical perspective. *Journal of Human Rights and the Environment*, 2, 1: 23. DOI:10.4337/jhre.2011.01.02.
- Hagan J., Raymond-Richmond W. (2015). Human Rights and International Humanitarian Law. In Blau J. R., Brunsma D. L., Moncada A., Zimmer C., eds., *The Leading Rogue State: The United States and Human Rights*. London-New York: Routledge. DOI:

10.4324/9781315633695.

- Longo M. (2001). *Struttura della società e semantica del soggetto*. Lecce: Pensa Multimedia.
- Longo M. (2021). Inclusione come retorica, esclusione come destino: soggetto di diritto, processi inclusivi e vulnerabilità. In Gioffredi G., Lorubbio V., Pisanò A., eds., *Diritti umani in crisi? Emergenze, disuguaglianze, esclusioni*. Pisa: Pacini Giuridica.
- Longo M., Lorubbio V. (2023a). Vulnerability. From the Paradigmatic Subject to a New Paradigm of the Human Condition? An Introduction. *International Journal of the Semiotics of Law*, 36, 4: 1359. Retrieved from: <https://link.springer.com/article/10.1007/s11196-023-09999-6> (25/05/2024).
- Longo M., Lorubbio, V. (2023b). Ecosystem Vulnerability. New Semantics for international law. *International Journal of the Semiotics of Law*, 36, 4: 1611. Retrieved from: <https://link.springer.com/article/10.1007/s11196-023-09998-7> (25/05/2024).
- Marshall T.H. (1950). *Citizenship and Social Class: And Other Essays*. Cambridge: Cambridge University Press.
- McSorley K. (2014). Towards an Embodied Sociology of War. *The Sociological Review*, 62, 2: 107. DOI: 10.1111/1467-954X.12194.
- Pariotti E. (2019). Vulnerabilità ontologica e linguaggio dei diritti. *Ars Interpretandi*, 2: 155. DOI:10.7382/95816.
- Pariotti E. (2023) Vulnerability and Human Rights: Which Compatibility?. *International Journal of the Semiotics of Law* 36, 4: 140. Retrieved from: <https://link.springer.com/article/10.1007/s11196-023-09977-y> (27/05/2024).
- Pastore B. (2020). Vulnerabilità situata e risposte alle vulnerazioni. *Etica & Politica/Ethics & Politics*, 23, 1: 283. Retrieved from: [https://sites.units.it/etica/2020\\_1/PASTORE.pdf](https://sites.units.it/etica/2020_1/PASTORE.pdf) (27/03/2025)
- Pastore B. (2021). *Semantica della vulnerabilità, soggetto, cultura giuridica*. Torino: Giappichelli.
- Pufendorf S. (1744). *De jure naturalis et gentium*. Lousanne-Geneve: Marcus Michaellem Bousquet.
- Samson C. (2020). *The Colonialism of Human Rights*. Cambridge: Polity Press.

- Sassoli M. (2024). *International Humanitarian Law Rules, Controversies, and Solutions to Problems Arising in Warfare, Second Edition*. Cheltenham: Edward Elgar.
- Scarry E. (1985). *The Body in Pain: The Making and Unmaking of the World*. Oxford-New York: Oxford University Press.
- Schabas W. (2013). *The Universal Declaration of Human Rights: The Travaux Préparatoires*. Cambridge-New York: Cambridge University Press.
- Tramontana E. (2017). Il soft law e la resilienza del diritto internazionale. *Ars Interpretandi*, 2: 43. DOI: 10.7382/89310.
- Tarello G. (1976). *Storia della cultura giuridica moderna. Assolutismo e codificazione*. Bologna: il Mulino.
- Turner B.S. (2006). *Vulnerability and Human Rights*. University Park, PA: Penn State University Press. DOI: 10.5325/j.ctt7v124.